

Contribution of Slovenia

Equality and non-discrimination

1. Does your country's constitution and/or legislation (a) guarantee equality explicitly for older persons or people of all ages and (b) forbid discrimination explicitly on the basis of age? If so, how is the right to equality and non-discrimination defined?

Article 14 of the Constitution provides that in Slovenia everyone is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, financial status, birth, education, social status, disability or any other personal circumstance. The second paragraph of Article 14 provides that everyone is equal before the law. The framework of the general principle of equality includes equal protection of the rights governed by Article 22 (equal protection of rights in proceedings before courts and other state bodies).

Protection Against Discrimination Act, adopted in 2016, is a fundamental and general law (*lex generalis*) on the prohibition of discrimination on grounds of any personal circumstances, which includes *inter alia* the explicit prohibition of discrimination on grounds of age. It lays down common basis and starting point for ensuring equal treatment for all in the exercise of their rights, obligations and fundamental freedoms in all areas of social life. It further stipulates that the State bodies and bodies of self-governing local communities are responsible for providing the conditions for equal treatment. It also defines discrimination, equal treatment, direct and indirect discrimination and other forms of discrimination, harassment and sexual harassment and adoption of special measures.

There are also examples of prohibition of discrimination being addressed in legislation governing specific areas, such as the Patient Rights Act which in Article 7 explicitly states the right to equal treatment in health care for every patient, regardless of gender, nationality, race or ethnic origin, religion of belief, disability, age, sexual orientation or other personal circumstance.

2. Does your country produce information about discrimination against older persons in the following or other areas? If so, what are the findings?

- **Employment**
- **Access to goods and services**
- **Social protection**
- **Health care**
- **Social care**
- **Justice, inheritance**
- **Decision-making and autonomy, Living environment**
- **Other areas (please specify)**

There is currently no systematically published information about discrimination against older persons in the areas listed above. Protection Against Discrimination Act, adopted in 2016, foresees the systematic collection of data on cases of discrimination according to the listed personal circumstances, forms of discrimination and areas of life (such as employment, access to goods and services or social protection).

The analytical report on the empowerment of older persons in Slovenia section of project AHA.SI concluded in 2015 outlined the following social areas as challenging: (1) recognition, encouragement and support to the contribution of older persons in the family, community and economy, (2) opportunities for engagement in cultural, economic, political and social life, (3) opportunities for paid work, (3) disregard for needs of older persons and respect of the right to dignity, (4) recognition and encouragement of voluntary work of older persons, (5) access to information through ICTs, (6) lifelong learning and (7) attitudes of younger persons towards the infirm and disabled.

The Government of the Republic of Slovenia is aware of the importance of issues related to the ageing population and issues related to the equality and non-discrimination of older persons. In this context, the Prime Minister in spring 2015 designated a Secretary of State in his Cabinet to coordinate responses to the consequences of demographic change and intergenerational solidarity. In April 2017 the Government prepared a draft of a Strategy of a long-lived society which is now in the public debate.

With regard to social protection social inspection prepares annual reports on the inspections carried out and on imposed measures. The line ministry and the inspection examine the procedures together in order to determine possible needs to amend the legislation.

In accordance with the Patient Rights Act, the patient may complain via representatives of patients' rights, who operate throughout Slovenia. The overall number of cases that the representatives of patients' rights deal with has been increasing every year.

In recent years good cooperation was established between the line ministries and the Ombudsman. Particularly intensive cooperation is in the field of treatment of persons with dementia, where Ombudsman also participated in preparing guidelines for working with people with dementia.

3. Is there information available about inequality of opportunities or outcomes experienced by older persons in the following areas?

- **Availability of, access to and quality of health care services**
- **Financial services**

In Slovenia, there is a Bismarck-type healthcare system, based on the principles of equality, justice, solidarity and universality. Health insurance in the Republic in Slovenia is compulsory for everyone meeting statutory requirements. Virtually the entire population is insured.

In 2011 Dunja Obersnel Kveder from the Federation of Pensioners' Associations of Slovenia published an analysis on the discrimination of older persons in health care. She found that the right to equal access to health care for older persons was violated when the politicians, the experts and the public were not informed enough about discrimination due to age when discussing or adopting ways to rationalise health care costs. She found this particularly in the planning of preventive programmes, limitations in access to certain treatments, forgoing certain treatments, increasing the costs of services and medicines and in creating barriers for older persons. She explained the latter with examples of information and instructions that are not adapted to older persons, who might have trouble memorising or hearing, in introducing electronic methods for making doctor's appointments, etc.

Discrimination against older persons in health care may occur in various forms. It can occur merely as warnings about the rising costs of health care due to the growing number of older patients and the ageing of the population, while the correct interpretation would be that the costs of health care are increased by morbidity, not old age as such. While chronic diseases are more frequent in old age, the development of the medical profession also increases the possibilities for treatment and the prolongation of life. Numerous new technologies have been introduced and medicines developed by pharmaceutical companies, and they are becoming increasingly expensive. In short, this is a broad area where discrimination is perpetrated by providers as well as users.

The central bank did not identify any restrictions or prohibitions regarding access to banking services (e.g. bank accounts, loans) for older persons. However, in line with business policy of banks some types of products are customized for a limited group of market participants (students, pensioners, etc.). This kind of offering products is consistent with the aim to ensure that the interests, objectives and characteristics of consumers are taken into account, to avoid potential consumer detriment and to minimise conflicts of interest. Banks design and bring to the market products with features and risks that meet the interests of, and are of benefit to, the particular target market identified for the product. When deciding whether or not a product meets the objectives and characteristics of a particular target market, banks should assess among others the degree of financial capability of the target market.

There is no information available concerning discrimination against older persons regarding the access to insurance products and services. That being said, the Insurance Supervision Agency is aware of the fact, that the physical access to insurance products and services might be limited for the older population due to the constrained access to modern sales channels and technical innovations provided by the insurance industry, which are increasingly used in the sales of insurance products.

4. Are there any areas where differential treatment based on old age is explicitly justified?

Examples:

- **Access to goods**
- **Mandatory age of retirement**
- **Age limits in financial services and products**
- **Age-based benefits**

In Slovenia, older unemployed people are positively discriminated in the field of rights, which they can get on the basis of unemployment insurance. According to the Labour Market Regulation Act, the duration of unemployment benefits increases sharply with work experience and age. Maximum benefit duration varies from two months for young workers (with 6-8 months of prior employment) to up to 25 months. For workers over 55 years, with an insurance period of 25 years, the duration of unemployment benefit is set to 25 months as soon as contributions for nine months were paid in the past 24 months. After this period (period of receiving the unemployment benefit) unemployed older workers (who upon repeated enforcement of the right of the unemployment benefit are older than 57 years of age and have accumulated an insurance period of more than 35 years) can receive pension and disability contributions for up to 2 years prior to fulfilling minimum conditions for retirement (old-age). In March 2018 this period will be reduced to 1 year.

According to the Labour Market Regulation Act pensioners (who are completely retired, not partially) have a possibility of a temporary or periodical work as one of the additional possibilities of raising their incomes after retirement. According to the Intervention Measures for the Labour Market Act an employer, who concludes an employment contract with an unemployed person older than 55 years who is at least six months before the employment registered in the records of unemployed persons, is for the first 24 months of employment exempt from compulsory employer social contributions.

In the area of consumer loans, particularly long term (e.g. for immovable property), some banks have restrictions about the upper age when the credit should be repaid (e.g. 75 or 80 years of age). When granting a consumer loan, banks should assess consumers' creditworthiness. When assessing the consumer's ability to meet obligations under the credit agreement, banks should make prudent allowances for potential negative scenarios in the future, including, among others, a reduced income in retirement. The aim for such treatment is the protection against over-indebtedness of the consumer and at the same time management of credit risk for banks. In this respect the central bank sees difference in treatment as justified.

From the point of view of the cost of insurance coverage, the older persons would be treated differently (resulting generally in higher cost of insurance cover) due to the higher risk compared to younger persons, which is the case especially in the personal insurance lines. Namely, when assessing the risk to be insured with the use of statistical methods the higher the age, the higher the risk result is commonly obtained which consequently results in higher premium and thus lower access to insurance products.

The said differential treatment is technically justified and generally accepted in the insurance industry. The Slovenian Insurance act provides the legal base for this justification in para. 6 of Article 521, namely: "Insurance undertakings shall treat all providers and potential insured persons who wish to obtain insurance services equally; however, in the procedure for making selections, assessing risks, determining premiums and paying insurance benefits, they may take into consideration the criteria of insurance experts or only the following personal circumstances and traits of the insured person: age, health condition, disability, occupation, and other personal circumstances that may reasonably affect the amount of the assumed risk, with the exception of gender, maternity, and pregnancy."